

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

BOUDER, et al,

Plaintiffs,

vs.

PRUDENTIAL FINANCIAL, INC.,

et al,

Defendants.

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Hon. Dennis M. Cavanaugh

ORDER

Civil Action No. 06-CV-4359 (DMC)

DENNIS M. CAVANAUGH, U.S.D.J.:

This matter comes before the Court upon motion by Defendants Prudential Financial, Inc. and The Prudential Insurance Co. (collectively “Prudential” or “Defendants”) to partially dismiss Plaintiffs’ Second Consolidated Amended Collective and Class Action Complaint (“CAC”) for failure to state a claim upon which relief can be granted. Pursuant to Fed. R. Civ. P. 78, no oral argument was heard. After considering the submissions of all parties, and based upon this Court’s Opinion filed this day;

IT IS this 2nd day of December, 2009;

ORDERED that Defendants’ motion to dismiss Plaintiffs’ Second Claim for Relief pursuant to the CAC is **granted**;

ORDERED that Defendants’ motion to dismiss Plaintiffs’ Third Claim for Relief pursuant to the CAC is **denied**;

ORDERED that Defendants’ motion to dismiss Plaintiffs’ Fourth Claim for Relief pursuant to the CAC with respect to Indiana members is **granted**, with respect to Michigan members is **denied** and with respect to Nevada members is **denied**;

ORDERED that Defendants' motion to strike, treated as a motion to dismiss, claims exceeding each state's respective statute of limitations with respect to Illinois is **granted**, with respect to Indiana is **granted**, with respect to Massachusetts is **granted**, with respect to Michigan is **denied**, with respect to Montana is **denied**, with respect to New Jersey is **denied** and with respect to Ohio is **granted**;

ORDERED Plaintiffs request to amend, in accordance with the accompanying opinion, is **granted**;

/s/ Dennis M. Cavanaugh
Dennis M. Cavanaugh, U.S.D.J.

Original: Clerk
cc: All Counsel of Record
Hon. Mark Falk, U.S.M.J.
File